



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
DIVISION OF SOLID AND HAZARDOUS MATERIALS • BUREAU OF PESTICIDES MANAGEMENT
www.dec.state.ny.us

INSPECTION REPORT COVER SHEET

Inspection #: <u>092010GD901</u>	Name of Person Contacted: <u>DAVID COULTER</u>
Name of Business: <u>COULTER FARMS LLC</u>	Official Position: <u>MEMBER</u>
Street Address: <u>3871 NORTH RIDGE RD.</u>	Post Office Address: <u>N/A</u>
City/State/Zip Code: <u>LOCKPORT, NY 14094</u>	City/Village/Township: <u>CAMBRIA</u>
Telephone Number: <u>716-433-5335</u>	County: <u>NIAGARA</u>

Inspector's Initials	Name of Inspection Form	Form Number
<u>DKO</u>	Notice of Inspection	<u>NOI</u>
<u>DKO</u>	Pesticide Applicator/Business/Use Inspections	<u>USE</u>
<u>DKO</u>	Worker Protection Standard Inspection	<u>WPS</u>
	Liquid Termiticide Use Checklist	TER
	Ornamental and Turf Checklist	T&O
	Voluntary Statement	VOL
	Receipt for Samples	SAM
<u>DKO</u>	Market Place/Restricted Dealers Records Inspection	<u>MKT</u>
	Market Place/Restricted Dealer Records Inspection Continuation Sheet	MPC
	Quarantine Order	QRN
	Quarantine Order Release	QOR
	Experimental Use Permit Checklist	EUP
	Authorization for Medical Record Disclosure	MED

Inspector's Signature: [Signature] Number: GD9 Date: 09/20/10

Inspection Acknowledgment: I acknowledge receiving a copy of the above listed inspection documents initialed by the inspector.

Signature: [Signature] Date: 09/20/10

Print Name: DAVID J. COULTER

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☒ NOTICE OF INSPECTION

☒ USE/MISUSE INSPECTION

INSPECTION # <u>072010GD901</u>	DATE <u>9/20/10</u>	TIME <u>1:00</u> <small>AM</small> <small>PM</small>	REGION <u>9</u>
NAME OF INDIVIDUAL <u>DAVID COULTER</u>		TITLE <u>Member</u>	
NAME OF FIRM (Note if corporation, partnership, dba, etc) <u>COULTER FARMS LLC</u>			
ADDRESS This is the address of the: <input checked="" type="checkbox"/> INSPECTION SITE <input checked="" type="checkbox"/> FIRM <input checked="" type="checkbox"/> INDIVIDUAL <u>3871 NORTH RIDGE RD.</u>			
CITY / VILLAGE <u>LOCKPORT</u>		STATE <u>NY</u>	ZIP <u>14094</u>
TOWNSHIP <u>CATTARAUGUS</u>	COUNTY <u>NIAGARA</u>	PHONE <u>716-433-5335</u>	

REASON FOR INSPECTION

- ☒ For the purpose of inspecting and obtaining samples of any pesticides or devices packaged, labeled and released for shipment, samples of any containers or labeling for such pesticides or devices in places where pesticides or devices are produced, or held for distribution or sale.
- ☒ For the purpose of inspecting and obtaining samples of mandated records.
- ☒ For the purpose of inspecting the use of pesticides and sampling pesticides in use to determine if they are being used in compliance with appropriate laws and rules and regulations.
- ☒ For the purpose of inspecting sites where pesticides are being used to collect data on the use of pesticides and to determine whether pesticides are being used in compliance with appropriate laws and rules and regulations.
- ☐ Other

VIOLATION SUSPECTED

CONSENT USE/MISUSE

Voluntary Consent Necessary to Enter for Inspection and/or Sampling.

- ☒ The undersigned hereby voluntarily consents to an inspection of COULTER FARMS LLC of which I am the owner, Agent, or Person-in-Charge, for the purposes of gathering information and/or samples in connection with the administration and enforcement of Article 33 and Section 15-0313 of the Environmental Conservation law relating to pesticides. I understand that I have the right to refuse consent to this entry.

SIGNATURE <u>David Coulter</u>	TITLE <u>MEMBER</u>	DATE <u>9/20/10</u>
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This inspection is being performed under authority granted by Article 33 and Section 15-0313 of Article 15 of the Environmental Conservation law relating to pesticides and the Federal Insecticide, Fungicide and Rodenticide Act as amended (7 U.S.C. 136 et seq.).

INSPECTOR INFORMATION

NAME <u>GREGORY R. DAVIS</u>	TITLE <u>PCS I</u>	ID NUMBER <u>GD9</u>	PHONE NUMBER <u>716-851-7220</u>
SIGNATURE <u>Gregory R. Davis</u>	OFFICE LOCATION <u>270 MICHIGAN AVE BUFFALO</u>	ACCOMPANIED BY <u>MICHAEL NIERENBERG #331</u>	

NYS Dept of Environmental Conservation URPCCEP CHECKLIST To be used with NAUO, CAR, and RDR inspections

Inspect Type	Question/Action	Y	N	N A	Remarks
ALL *	1. Opening conference.	✓			
	2. Inspection of pesticide storage area:	✓			
	a Any pesticides on hand that seem inappropriate for establishment or site?		✓		
	b Are there supplies of clean household containers that could be filled with pesticides and left with customer/tenants?		✓		
	c Any pesticides in unlabeled packaging or "household" packaging?		✓		
	d Are restricted use pesticides in storage?	✓			
	e Are there security measures in place to prevent unauthorized entrance and use of pesticides?	✓			
	f Have any pesticides been stolen/ pilfered from inventory - particularly RU or agricultural ones?		✓		
CAR	1. All CAR inspections- conduct review of Applicator records.				
	a Structural Related: Any structural applications of seemingly inappropriate pesticides?				
	b Agricultural Related: Has methyl parathion been used in the last year?		✓		
	Any discrepancies between amount of RU pesticides purchased and applied, or undocumented returns?		✓		
RDR	1. Is this establishment engaged in the retail sale of methyl parathion?		✓		
	2. Do purchasers produce a commodity on which the pesticide is used?		✓		
	a Have all sales of RUPs been made to either:		✓		
	A person who is certified to use it?				
	An individual under the direct supervision of a currently certified applicator authorized to use the product?		✓		
	3. Have there been sales of methyl parathion EC in the past two years?		✓		
	a What methyl parathion products in particular does the dealer sell? _____				
	b What crops are the products used on? _____			✓	
	4. If this is not a methyl parathion emulsifiable concentrate dealer, have any of the other ag pesticides referenced in attachment "5A" of URPCCEP Protocol been sold for the past few years?		✓		
	a If not, have any other agricultural pesticides, particularly RU ones, been sold?	✓			
	5. Does the dealer conduct audits of its pesticide inventory? How often? <u>Monthly</u>				
	6. Has there ever been an unexplained discrepancy between the amount of methyl parathion or other ag use pesticide in inventory and amount that inventory records indicate should be there?		✓		
	a What was the pesticide?			✓	
b Was the discrepancy resolved as 1) bookkeeping error? or 2) was theft suspected?			✓		
7. Has methyl parathion or any RU agricultural pesticide been stolen from inventory? If yes, document particulars (i.e. person's name, the intended use of pesticide) and ask for a copy of any police report, report to the insurance company or other information relating to the theft.		✓			
ALL *	3. Closing conference.	✓			

* When only conducting an NAUO inspection, these blocks of questions/actions are the only ones that need to be covered.

PESTICIDE APPLICATOR/BUSINESS/USE INSPECTIONS

INSPECTION NUMBER 09261050901		FIRM/FACILITY/PERSON INTERVIEWED COULTER FARMS LLC / DAVID COULTER		EQUIPMENT TYPE/SIZE FMC 100 gal AIR BLAST	
TYPE OF INSPECTION: <input type="checkbox"/> Business/Agency <input checked="" type="checkbox"/> Applicator <input type="checkbox"/> Non-agricultural use <input checked="" type="checkbox"/> Agricultural use		SITE OF INSPECTION 3871 NORTH RIDGE RD., LOCKPORT, NY 14094			
BUSINESS REG. NO./EXPIRATION DATE N/A		INSURANCE COMPANY/EXPIRATION DATE N/A			
APPLICATOR NAME/CERTIFICATION TYPE		CERTIFICATION ID	CATEGORY/EXPIRATION	SUPERVISED BY	
DAVID COULTER		P9873734	22 01/21/15	N/A	
Jeffrey C Hall		P9476380	22 07/01/13	N/A	
DATE/TIME/WEATHER CONDITIONS DURING APPLICATION 9/17/10		CROP SWEET CORN	SITE/SIZE Fields 45-49 2.05 Acres	TARGET PESTS FALL ARMYWORM	
PESTICIDE NAME/EPA REG NO	METHOD OF APPLICATION	CLASSIFICATION	FORMULATION	LABEL RATE	OBSERVED RATE
TOMSTONE HELIOS #34764-978	AIR BLAST	RUP	LIQUID	2.8oz/A	2.9oz/A
LABEL/EQUIPMENT REQUIREMENTS	REFERENCE SECTION	Yes	No	NA	
Label Rate Followed	325.2(b)	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>
Target Pests on Label	325.2(b)	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>
PPE/Cautionary Labeling Followed	325.2(b)	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>
Preharvest Interval/REI per Label	325.2(b)	<input checked="" type="checkbox"/>			
Crop/Area Treated per Label	325.2(b)	<input checked="" type="checkbox"/>			
Pesticide Containers Properly Labeled	33.1301(1)(b)	<input checked="" type="checkbox"/>			
Service Containers Properly Labeled	33.1301(1)(b)	<input checked="" type="checkbox"/>			
Containers Properly Rinsed and Disposed	325.4(a)	<input checked="" type="checkbox"/>			
Backflow Prevention/Air Gap Present	325.2(c)		<input checked="" type="checkbox"/>		
Proper Stickers on Equipment/Vehicles	325.26			<input checked="" type="checkbox"/>	
Equipment Properly Calibrated		<input checked="" type="checkbox"/>			
Storage Locked/Containers Secure		<input checked="" type="checkbox"/>			
Warning Signs Posted		<input checked="" type="checkbox"/>			
Location of Container Disposal:	Municipal Pickup				
Location of Pesticide Storage:	Behind SPRAY BAR				
Water Source:	MUNICIPAL				
Pesticide Mixing Area:	CORNER OF SHOP				
APPLICATOR REQUIREMENTS		REFERENCE SECTION	Yes	No	NA
Apprentices Properly Supervised		325.7(d)			<input checked="" type="checkbox"/>
Apprentices Trained/Documented		325.10(a)			<input checked="" type="checkbox"/>
Apprentice Variance Approved		325.10(b)			<input checked="" type="checkbox"/>
I. D. Card in Possession During Use		325.7(a)	<input checked="" type="checkbox"/>		
Label in Possession During Use		325.2(d)	<input checked="" type="checkbox"/>		
Notification Requirements Met		33-0905(5)	<input checked="" type="checkbox"/>		
REPORTS/RECORDS		33-1205(1)	Yes	No	NA
EPA Reg. No.			<input checked="" type="checkbox"/>		
Product Name			<input checked="" type="checkbox"/>		
Quantity			<input checked="" type="checkbox"/>		
Date Applied			<input checked="" type="checkbox"/>		
Address			<input checked="" type="checkbox"/>		
Place of Application			<input checked="" type="checkbox"/>		
Dosage Rate			<input checked="" type="checkbox"/>		
Method of Application			<input checked="" type="checkbox"/>		
Target Organism/Crop Treated			<input checked="" type="checkbox"/>		
Records Kept 3 Years			<input checked="" type="checkbox"/>		
REMARKS:					
INSPECTOR'S SIGNATURE		DATE AND TIME INSPECTED			
[Signature]		09/20/10 1:00pm			



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MARKET PLACE / RESTRICTED DEALER RECORDS INSPECTION

INSPECTION NUMBER 092010GD901		FIRM COULTER FARMS LLC		
CHECK INSPECTION(S) COMPLETED: <input checked="" type="checkbox"/> MARKETPLACE <input checked="" type="checkbox"/> RESTRICTED DEALER RECORDS				
*COMMERCIAL PERMIT NO. R05468		*EXPIRATION DATE: 02/29/2012		
*CERTIFIED APPLICATOR NAME DAVID COULTER	*CERTIFICATION NUMBER P9873734	*EXPIRATION DATE 01/21/2015	*CATEGORIES 22	
LIST PESTICIDES BELOW IN ORDER TO - CHECK REGISTRATION STATUS, REVIEW LABEL REQUIREMENTS, AND/OR CHECK RESTRICTED SALES RECORDS:				
PESTICIDE NAME	EPA REG. NUMBER	LABELER	ADDRESS	R
1)				
2)				
3)				
4)				
5)				
6)				
7)				

STORAGE, LABELING & RECORDS	SECTION	YES	NO	NA	REMARKS
Packaging in good condition/original containers	33-1301(1)(b)	<input checked="" type="checkbox"/>			
All pesticides stored and/or displayed away from food and feed	325.2(b)	<input checked="" type="checkbox"/>			
*Restricted Pesticides stored in a secure manner	326.11	<input checked="" type="checkbox"/>			
All pesticides properly labeled and legible	33-1301(1)(e)	<input checked="" type="checkbox"/>			
Section 18 / 24(c) labeling and/or supplemental labeling provided	33-1301(1)(e)			<input checked="" type="checkbox"/>	
*Required records and reporting for all Restricted Use Pesticide transactions	33-0901(5); 33-1205(2); 33-1207; 326.10(3)	<input checked="" type="checkbox"/>			
*Required records kept for at least 2 years	326.3(f)	<input checked="" type="checkbox"/>			
Sign displayed in accordance with the Neighbor Notification Law	33-1004.1(a)			<input checked="" type="checkbox"/>	
Quarantine Order issued as a result of this inspection			<input checked="" type="checkbox"/>		See Quarantine Order form for pesticides in non-compliance
Inventory check made on previous Quarantine Order and/or Release issued			<input checked="" type="checkbox"/>		Previous Inspection No.:

ADDITIONAL REMARKS

INSPECTOR'S SIGNATURE *Gregory R. Quinn* DATE **09/20/10**

R = Restricted Use Pesticide
* Required field for RDR



WORKER PROTECTION STANDARD INSPECTION

Inspection # <u>0920106D901</u>	Date: <u>09-20-10</u>	Inspection: <input type="checkbox"/> Unannounced <input checked="" type="checkbox"/> Appointment
Firm/Farm Name <u>Coulter Farms LLC</u>	Inspection Type: Tier I <input checked="" type="checkbox"/> or Tier II <input type="checkbox"/>	
Type of Establishment: (check all applicable): <input checked="" type="checkbox"/> Farm <input type="checkbox"/> Greenhouse <input type="checkbox"/> Nursery <input type="checkbox"/> Family establishment <input type="checkbox"/> Research <input type="checkbox"/> Forest		
Approx. total area of establishment: <u>90 acres</u>	Principal crops: <u>sweet corn, strawberries</u>	
# of certified applicators with establishment: <u>2</u>	Name of person(s) directing/controlling pesticide use: <u>Jeffrey Hall</u> <u>David Coulter</u>	
Who applies pesticides? (check all applicable): <input checked="" type="checkbox"/> Owner <input checked="" type="checkbox"/> Employee <input type="checkbox"/> Custom Applicator		
Note: For data in this block, estimates provided by the establishment are sufficient.		
# present at this inspection:	workers <u>0</u>	handlers <u>2</u>
	# of permanent employees: <u>2</u>	workers <u>0</u>
	handlers <u>2</u>	
1. # present during last pesticide application:	workers <u>5</u>	handlers <u>3</u>
2. or for the last 30 days: (circle one)	# of seasonal employees: <u>5</u>	workers <u>5</u>
		handlers <u>1</u>

INFORMATION AT A CENTRAL LOCATION

40 CFR 170.122/135

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- ☒ NA ☒ Y ☐ N Is the approved SAFETY POSTER displayed? 23
☒ NA ☒ Y ☐ N Is EMERGENCY MEDICAL INFORMATION displayed? (name, address & telephone number) 24
☒ NA ☒ Y ☐ N Is the site LOCATED where it can be readily seen and read by workers & handlers? 24
☒ NA ☒ Y ☐ N Are workers & handlers INFORMED of the location and are they allowed ACCESS to the site? 24
☒ NA ☒ Y ☐ N Does the information remain LEGIBLE while posted? 24
☒ NA ☒ Y ☐ N Is the following APPLICATION INFORMATION displayed? -Location and Description of the treated area; - Product 23
 Name; -EPA REG #; - Active Ingredient(s) of the pesticide; - Time & Date of application; - REI (restricted entry interval)

Comments (explain NA):

PESTICIDE EXPOSURE INCIDENTS/EMERGENCY ASSISTANCE

40 CFR 170.160

- How are incidents reported for employees who become sick/injured by pesticides? never happened
- ☒ NA ☒ Y ☐ N Is prompt transportation to emergency medical facility available for employees who become sick/injured by pesticides? 36
☒ NA ☒ Y ☐ N Is information provided to medical personnel regarding the pesticide to which employees may have been exposed? 36

Who is the person responsible for providing transportation and pesticide information? Jeffrey Hall or Dave Coulter

☒ Y ☐ N Have there been any pesticide exposure incidents on this farm? If yes, give details:

Comments (explain NA):

EMPLOYER/CUSTOM APPLICATOR INFORMATION EXCHANGE

NA (no custom applications) 40 CFR 170.124 & 170.224

- ☒ NA ☒ Y ☐ N Does the ag establishment notify the custom applicator regarding the location of treated areas and REIs? 34
☒ NA ☒ Y ☐ N Does custom applicator notify the ag establishment of required application information before the application? 33

How is the information exchanged? When/with whom? N/A

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PESTICIDE SAFETY TRAINING ASSURANCE

40 CFR 170.130

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WORKERS: (Applies to workers who are NOT certified applicators or trained handlers)

- ☒ NA ☒ Y ☐ N Does Ag Employer ASSURE that workers have been trained within the last five years? 25
- ☒ NA ☒ Y ☐ N Does Ag Employer ASSURE that workers have been trained *before EARLY ENTRY activities* during an REI? 25
- ☒ NA ☒ Y ☐ N Is the Ag Employer able to VERIFY that the required PESTICIDE SAFETY INFORMATION was provided to workers *before entry into any area on an ag establishment where WPS pesticides have been applied within the last 30 days?* 26
- ☒ NA ☒ Y ☐ N Does Ag Employer ASSURE that workers have received the required ADDITIONAL TRAINING *before the sixth day of entry into any area on an ag establishment where WPS pesticides have been applied within the last 30 days?*

HANDLERS: (Applies to handlers who are NOT certified applicators or certified crop advisers)

40 CFR 170.230

- ☒ NA ☒ Y ☐ N Does Ag Employer ASSURE that handlers have been trained within the last five years? 25/26
- ☒ NA ☒ Y ☐ N Does Ag Employer ASSURE that handlers have been trained *before performing any handling task?* 25/26

How is training verified for both workers and handlers? roster sheet signed by workers/handlers

Comments (explain NA):

PESTICIDE SAFETY TRAINING PROGRAM

NA (if workers trained elsewhere)

40 CFR 170.130/230

- ☒ NA ☒ Y ☐ N **WORKERS & HANDLERS:** Is the information presented in a manner that the workers & handlers can understand (such as through a translator & using nontechnical terms & presenter answers questions)? 27
- ☒ NA ☒ Y ☐ N **WORKERS:** Does the PESTICIDE SAFETY INFORMATION meet the criteria listed in 170.130(c)? 26
- ☒ NA ☒ Y ☐ N **WORKERS:** Does the content of the ADDITIONAL TRAINING materials meet the criteria listed in 170.130(d)(4)? 103
- ☒ NA ☒ Y ☐ N Is trainer qualified to train WORKERS? (certified applicator or authorized by DEC) 26
- ☒ NA ☒ Y ☐ N **HANDLERS:** Does the content of the training materials meet the criteria listed in 170.230(c)(4)? 104
- ☒ NA ☒ Y ☐ N Is the trainer qualified to train HANDLERS? (certified applicator or authorized by DEC) 26

Who trains workers/handlers? David Coulter When/how often? every year

Comments (explain NA):

DECONTAMINATION SITES

The employer must adhere to the following decontamination requirements for **WORKERS and HANDLERS:** **40 CFR 170.112/150/250**

- ☒ NA ☒ Y ☐ N Do decontamination sites have soap, single-use towels, and enough water for washing & emergency eye flushing? 29/31
- ☒ NA ☒ Y ☐ N Is the decontamination water of a quality & temperature as required? 29
- ☒ NA ☒ Y ☐ N Is one pint of eye flush water immediately available to handlers using pesticides requiring protective eye wear and to early entry workers when working in areas treated with pesticides requiring protective eye wear for early entry? 31/68
- ☒ NA ☒ Y ☐ N Is the decontamination site within 1/4 mile of the work site and out of areas being treated or under REI? 30/31
- ☒ NA ☒ Y ☐ N Are decontamination sites provided for workers entering treated areas until 30 days following expiration of the REI? (Exception: Pesticides with a four-hour REI require decontamination site for only seven days.) 29
- ☒ NA ☒ Y ☐ N Are decontamination sites provided for early entry workers during and after early entry? 67/68

The employer must adhere to the following decontamination requirements for **HANDLERS:**

40 CFR 170.250

- ☒ NA ☒ Y ☐ N Is enough water provided to handlers for washing the entire body in case of an emergency? 30 gallons 30
- ☒ NA ☒ Y ☐ N Is one clean change of clothing provided to handlers for use in an emergency? 30
- ☒ NA ☒ Y ☐ N Are decontamination supplies located at the mix/load site? 30/31
- ☒ NA ☒ Y ☐ N Are decontamination supplies for PILOTS kept in the airplane or at the aircraft loading site? 30
- ☒ NA ☒ Y ☐ N Are handler decontamination supplies kept out of treated areas unless they are in enclosed containers? 31
- ☒ NA ☒ Y ☐ N Are decontamination supplies located where handlers remove PPE for washing thoroughly after handling activities? 31

Comments (explain NA):

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ADDITIONAL DUTIES FOR WORKER EMPLOYERS

40 CFR 170.110

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RESTRICTIONS DURING APPLICATIONS

- ☒ NA ☒ Y ☐ N Are workers prohibited in treated areas during application and until REIs have expired? 45
- ☒ NA ☒ Y ☐ N Are workers prohibited in treated areas plus the additional buffer area during application in NURSERIES? 51/52
- ☒ NA ☒ Y ☐ N Are workers prohibited in a GREENHOUSE during application and until ventilation criteria are met? 53-55

NOTICE OF APPLICATIONS TO WORKERS

40 CFR 170.120

- ☒ NA ☒ Y ☐ N Are all GREENHOUSE applications posted with WPS warning signs? 42
- ☒ NA ☒ Y ☐ N Are workers given BOTH oral and posted notification when required by the pesticide label? 41-44
- ☒ NA ☒ Y ☐ N Are workers given notification of applications (EITHER orally or posted) for other applications? 41-44
- ☒ NA ☒ Y ☐ N Are workers told which method will be routinely used at this firm (oral or posted notification)? - circle one 41

Who notifies workers?

Jeffrey Hall

- ☒ NA ☒ Y ☐ N Have any early entry activities occurred?
- ☒ NA ☒ Y ☐ N Were workers informed of label restrictions re: early entry?

Posted Warning Signs NA for all

- ☒ NA ☒ Y ☐ N Does the employer use the approved WPS warning signs for posted notification? 42/43
- ☒ NA ☒ Y ☐ N Are the signs posted at all entrances of worker entry to the treated area? 42
- ☒ NA ☒ Y ☐ N Are the signs put up no sooner than 24 hours prior to application? 43
- ☒ NA ☒ Y ☐ N Are the signs removed within three days after the end of the REI? 43
- ☒ NA ☒ Y ☐ N Are the signs posted along the border of any labor camp adjacent to the treated area? 42

Oral Warnings NA for all

- ☒ NA ☒ Y ☐ N Are oral warnings given in a language (s) understood by workers? 44
- ☒ NA ☒ Y ☐ N Do oral warnings include: 1) location & description of treated area; 2) REI; 3) instructions not to enter during the REI? 44

Comments (explain NA):

ADDITIONAL DUTIES FOR HANDLER EMPLOYERS

APPLICATION RESTRICTIONS & MONITORING

NA if no handlers employed 40 CFR 170.210

- ☒ NA ☒ Y ☐ N *Do both the employer & the handler assure that no pesticide is applied (either directly or through drift) so as to contact anyone other than trained and PPE-equipped handlers: 73
- How is this verified?
- ☒ NA ☒ Y ☐ N Are handlers monitored visually or by voice every two hours when handling SKULL & CROSSBONES pesticides? 73
- ☒ NA ☒ Y ☐ N Does the handler have a continuous visual or voice contact with another trained and PPE-equipped handler when handling a FUMIGANT in a GREENHOUSE? - 73/74

SPECIFIC INSTRUCTIONS FOR HANDLERS

NA if no handlers employed 40 CFR 170.232

- ☒ NA ☒ Y ☐ N Does the employer assure that handlers read the label or are informed (in a manner they can understand) about the label requirements for safe use before performing any handling activity? 75
- ☒ NA ☒ Y ☐ N Does the handler have access to the product labeling during handling activities? 75

SAFE OPERATION OF EQUIPMENT

NA if no handlers employed 40 CFR 170.234

- ☒ NA ☒ Y ☐ N Is the handler instructed in the safe operation of handling equipment before it is used? By whom? Jeffrey Hall 75
- ☒ NA ☒ Y ☐ N Is handling equipment inspected and repaired before each day of use? 77
- ☒ NA ☒ Y ☐ N Does the employer assure that only trained and PPE-equipped handlers repair, clean or adjust any handling equipment that contains pesticides or pesticide residues? 77

Comments (explain NA):

PERSONAL PROTECTIVE EQUIPMENT REQUIREMENTS FOR HANDLERS/EARLY ENTRY WORKERS**40 CFR 170.112/240**

- ☒ NA ☒ Y ☐ N Does the employer provide the handler/early entry workers with the appropriate PPE in clean and operating condition? 79
- ☒ NA ☒ Y ☐ N Does the employer assure that instruction on use and cleaning of PPE is given and that it is worn and used correctly? 79
- Who gives instructions and assures use of PPE? certified applicators
- ☒ NA ☒ Y ☐ N Does the employer assure that PPE is inspected, cleaned, stored properly & repaired or replaced before each day of use? 79
- ☒ NA ☒ Y ☐ N Does the employer assure that filters are replaced on respirators when required? 80
- ☒ NA ☒ Y ☐ N Do handlers/early entry workers have a clean place to store personal clothing, put on PPE and remove PPE after use? 79
- Where is it located? maneuver shed
- ☒ NA ☒ Y ☐ N Is contaminated PPE disposed of properly? 79
- ☒ NA ☒ Y ☐ N Does the employer take appropriate measures to prevent heat-related illness for handlers/early entry workers using PPE? 79
- ☒ NA ☒ Y ☐ N Have handlers refused to wear proper PPE?

From labels of agricultural pesticides documented in an accompanying AUO inspection, list the following (for up to 4 products):

	Product Name	REI	PPE
1	Tombstone Insecticide 12	4	long sleeve shirt, long pants, chem. resat gloves, protective eyewear
2			
3			
4			

If the label for any of the above products does not include agricultural use requirements - state so above.

Comments (explain NA):

WORKER AND HANDLER INTERVIEWS

- ☒ Y ☐ N Were any workers or handlers interviewed? (circle which were) If no for either, explain why an interview was not conducted.

FAMILY ESTABLISHMENTS**40 CFR 170.104/110/112/124/224/240**

- ☒ NA ☐ Y ☐ N Are employees only spouse, children, stepchildren, foster children, parents, stepparents, foster parents, brothers, sisters? 91
- If NO, skip this section.
- ☒ NA ☐ Y ☐ N Are non-handlers prohibited in treated areas during application and until REIs have expired? 92
- ☒ NA ☐ Y ☐ N Are non-handlers prohibited in treated areas plus the additional buffer area during application in NURSERIES? 92
- ☒ NA ☐ Y ☐ N Are non-handlers prohibited in a GREENHOUSE during application and until ventilation criteria are met? 92
- ☒ NA ☐ Y ☐ N Are early entry workers prohibited in treated areas during the first four hours after application? 93
- ☒ NA ☐ Y ☐ N Are early entry workers limited to one hour of work in a 24-hour period in treated areas during the REI? 93
- ☒ NA ☐ Y ☐ N Are early entry workers who perform irrigation and limited contact activities limited to eight hours of work in a 24-hour period? 93
- ☒ NA ☐ Y ☐ N Is the correct PPE for early entry PROVIDED for early entry activities at this firm? 93
- ☒ NA ☐ Y ☐ N Does the handler at this firm wear the label-specified PPE during handling tasks? 92
- ☒ NA ☐ Y ☐ N Is the label-specified PPE for handling activities at this firm PROVIDED in clean and operating condition? 92
- ☒ NA ☐ Y ☐ N Does this establishment notify commercial handlers regarding location of treated areas and REIs on the establishment? 92
- ☒ NA ☐ Y ☐ N Do commercial handlers notify this establishment of required application information before application takes place? 92

Comments (explain NA):

Additional Comments:

Print name of inspector <u>Michael Hierenberg</u>	Print name of person interviewed <u>Jeffrey Hall</u>
Signature of inspector <u>[Signature]</u>	Signature of person interviewed <u>[Signature]</u>

**(WORKER)**

**WORKER PROTECTION STANDARD
AGRICULTURAL WORKER INTERVIEW QUESTIONNAIRE**

Inspection # (if interview related to an inspection):	092010 BD901
Name of Establishment:	Coulter Farms LLC
Date of Interview:	09-20-10
# of Workers Interviewed:	5, all from Mexico
Were workers accompanied by employers during interview?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Interview Conducted	<input checked="" type="checkbox"/> onsite <input type="checkbox"/> offsite

PESTICIDE SAFETY TRAINING

1. Do you know what a pesticide/poison is? ☒ Yes ☐ No

Ask them to briefly explain: chemical to control insects

2. Were you given pesticide-related instructions before you started working on this farm? ☒ Yes ☐ No

3. Did you receive pesticide safety training? ☒ Yes ☐ No

If yes, what type of training did you receive?

☒ movie ☐ flip chart (bring a picture of a flip chart) ☐ lecture ☐ handbook

4. Was the training in your native language? ☒ Yes ☐ No

5. Was an interpreter available during the training? ☒ Yes ☐ No

6. Where did you receive the training? Farm ☒ House ☐ Office

7. When did you receive the training? ☐ During work ☐ At lunch ☒ After work?

8. Do you know who trained you? ☒ Yes ☐ No If yes, who? David Coulter

9. When you were trained, were you taught about how to wear special clothes (PPE) such as gloves, boots, coveralls, mask) ☒ Yes ☐ No

10. When you were trained, were you taught about heat stress (eg. how to know when you've been in the heat for too long, how to avoid heat stress or what to do if you feel sick from it)? ☒ Yes ☐ No

11. (Show sample worker ID card) Were you given a card like this to show that you were trained?

☐ Yes ☒ No

Do you know of any other documentation that proves you received the required training?

☒ Yes ☐ No signed a roster

12. (Show the safety poster) Where is the safety poster located? ☐ Barn ☐ Garage ☒ Office ☐ House

13. (Show an example of application records) Has anyone ever showed you where these records are kept?
☒ Yes ☐ No If yes, where are they located? ☐ Barn ☐ Garage ☒ Office ☐ House

NOTIFICATION

14. Do you know where the signs are posted about pesticides that have been used recently?

☒ Yes ☐ No

If yes, where?

near time clocks

Who posts the signs?

Jeffrey Hall / David Coulter

15. Are you told about areas that have been treated with pesticides? ☒ Yes ☐ No

How are you told? ☐ Signs ☒ Oral warning ☐ Both

16. Who tells you when you get oral warnings? Is it the same person that posts the signs? ☒ Yes ☐ No

When do they post them?

before spraying fields

17. Are signs and oral warnings in your native language? ☒ Yes ☐ No

Inspector note how warnings are communicated to non-English speaking workers: they all

speak broken English

18. (Show warning REI sign.) Do you understand what this sign means? ☒ Yes ☐ No

If yes, do you pay attention to the warning signs and not enter or cross the fields? ☒ Yes ☐ No

19. Are you told when to stay out of treated areas? ☒ Yes ☐ No

20. Are the labels for the pesticides available for you to read? ☒ Yes ☐ No

A. Are the labels in a language you can understand? ☒ Yes ☐ No

B. Where is this information?

Barn

House

Office

C. Is this information always available to you? ☒ Yes ☐ No

DECONTAMINATION SUPPLIES

21. Is there ☒ water ☒ paper towels ☒ soap, available all day?

If so, where?

bathroom

Is this location more than 1/4 mile from the work site? ☐ Yes ☒ No (Inspector verify, if worker does not know.)

22. Is there drinking water available? ☒ Yes ☐ No

If yes, is it separate from the wash water? ☒ Yes ☐ No

EARLY ENTRY

23. Have you ever entered a field or an area of a greenhouse soon after you saw a pesticide being sprayed or were you ever told to enter such an area soon after a pesticide was used? ☐ Yes ☒ No

A. If yes, were you informed about safety information pertaining to the pesticide, such as precautions, first aid, signs & symptoms of poisoning, necessary PPE?

Or,

If you are able to read and understand pesticide labels, given access to a legible copy of the pesticide label allowed to read it for yourself?

☒ Yes ☐ No

B. If yes, were you given special clothing to wear? ☐ Yes ☐ No

C. If you did enter such an area, why?

N/A

HANDLER TASKS

24. In the past year, have you ever worked with pesticides to do any of the following?

✓ Y/N	mixing pesticides	adding to pesticide sprayers	applying pesticides to crops	repair or clean a pesticide sprayer	other activity (briefly describe)
Yes					
No	✓	✓	✓	✓	✓

If yes, were you trained in doing that work before you did it? ☐ Yes ☐ No

EXPOSURE INCIDENTS

25. Do you know that pesticides can hurt you if they get on your skin or clothing? ☒ Yes ☐ No

26. Do you take pesticide containers home with you? ☒ Yes ☐ No

A. If yes, what do you use them for?

B. Are chemicals ever in the containers? ☐ Yes ☐ No

N/A

27. Have you ever felt as though pesticides/poisons have made you sick after working in the fields?
☐ Yes ☒ No

If yes, what were your symptoms?

28. Were you ever directly sprayed/dusted by pesticides? ☐ Yes ☒ No

If yes, approximately when and how did this happen?

29. Did you ever miss work because of being ill from pesticides? ☐ Yes ☒ No

If yes, when and where did this occur?

30. Did you tell your employer or foreman about your pesticide exposure? ☐ Yes ☐ No

Did your employer or foreman take you to the hospital or clinic? ☐ Yes ☐ No

31. Do you know whether other workers got ill from or sprayed by pesticides? ☐ Yes ☒ No

EMERGENCY ASSISTANCE

32. Do you know where to go on your farm/greenhouse to get information about the closest hospitals/clinics (facility's name, phone number, address)? ☒ Yes ☐ No

A. Where is the information? ☐ Barn ☐ House ☒ Office

B. Is this information always available? ☒ Yes ☐ No

33. Do you know who to contact on the farm/greenhouse if you have a medical emergency while working? ☒ Yes ☐ No

34. Do you know who would take you to the hospital/clinic if you were sick from pesticides? ☒ Yes ☐ No

35. How do you or the employer report pesticide-related illnesses? verbally

RETALIATION

36. Have you ever been told to do something with pesticides on the farm (greenhouse, etc) that you thought you should not do? ☐ Yes ☒ No

37. Are you always able to do what is needed, like wear special clothing or know about pesticides used, without the employer stopping you from doing those things? ☒ Yes ☐ No

38. Have you ever complained about something relating to pesticides and your work at the farm/greenhouse and been threatened to be fired? ☐ Yes ☒ No

GENERAL

39. Where do you come from? (Country or State of origin) Mexico

40. Is farm work your primary job? ☒ Yes ☐ No

41. Have you worked on farms before? ☐ Yes ☒ No

A. For how many years? 1st year

B. How many months out of the year do you work on farms? 5

C. How long have you worked at your present farm? 5

42. In what other states have you worked on farms? None

43. Do you think your working conditions have improved or changed over the last five years?

☐ Yes ☐ No *N/A*

Are conditions on some farms better than others? ☐ Yes ☐ No *unknown*

14. What crops have you worked on in the last two years?

*tomatoes, peaches, cauliflower,
corn, cherries, peppers,
broccoli*

Division of Solid & Hazardous Materials
Article 33 and 6NYCRR 325

Assignment: Routine

Inspection Report: 092010GD901

Date of Inspection: September 20, 2010

Date of Report: September 22, 2010

Facility Inspected: Coulter Farms LLC
Person Inspected: David Coulter
Inspection Site: 3871 North Ridge Road
Lockport, New York 14094
(716) 433-5335

BACKGROUND

This was a routine inspection. The following inspections were performed: Agricultural Use Observation (AUO*), Certified Applicator Records (CAR), Restricted Dealer Records (RDR), Market Place Inspection (MPI), and Worker Protection Standard (WPS).

OPENING CONFERENCE

On September 20, 2010 at 1:00pm I, Gregory R. Davis, Pesticide Control Specialist I, #GD9 and Michael Nierenberg, Pesticide Control Specialist II, #331, identified ourselves, presented our New York State credentials, and I issued a Notice of Inspection to Mr. David Coulter, Member of Coulter Farms LLC. Also present was Mr. Jeffrey C. Hall, also a Member, and Mr. John King, sales representative of Crop Production Services. Crop Production Services is the supplier of pesticide products to Coulter Farms LLC, where they are resold. Mr. King observed our inspection for about 40 minutes and as we had no questions for him, he departed.

THE INSPECTION

Pesticide Certification:

This facility employs two Private Certified Applicators. David Coulter, certification identification number P9-837734, certified in category 22 - Fruit, with an expiration date of 01/21/2015, and Jeffrey C. Hall, certification identification number P9-476380, certified in category 22 - Fruit, with an expiration date of 09/21/2013.

Use Observation:

I conducted an Agricultural Use Observation (AUO*) from the pesticide application records and by interviewing Mr. Hall, the pesticide applicator who conducted the application. The application records were found to be complete and in compliance. "Tombstone Helios", EPA registration number 34704-978, a Federally restricted product, was applied on September 17, 2010 to 2.05 acres of sweet corn to control Fall Army Worm. It was applied at the rate of 2.8 ounces per acre, the same rate that is indicated on the label. The label also indicated a restricted entry interval of 12 hours. All other label directions were followed.

Mr. Hall uses a hose to fill his 100 gallon spray tank with water supplied by the Town. I indicated to both Mr. Coulter and Mr. Hall that a fixed pipe air gap between the discharge pipe and top of tank is required to comply with Regulations 325.2(c), thus eliminating the need for a back flow prevention device. They indicated that they would add one to the side of the shop where the mixing is done.

After viewing the pesticide storage area I completed an URPEP checklist with Mr. Hall, with no problems found.

Worker Protection Standard:

The tier I worker protection standard part of the inspection was carried out by Michael Nierenberg, (PCS II, #331).

The principal crops at this 90 acre farm are sweet corn and strawberries. There is one seasonal handler at this establishment. There are 2 permanent workers and approximately 5 seasonal workers employed by the facility.

The Central Location was located in the break room of the spray barn. This is the building where the pesticide 'spray' products are located for sale on one end of the building and the office, sales room, break room and restroom are in a separate section on the other end of the building. The required EPA safety poster was displayed with the proper emergency medical information on it. The pesticide application information was properly displayed as well on a clip board on the wall.

There have been no pesticide exposure incidents at the facility, but both Mr. Hall and Mr. Coulter indicated that either one of them would be the person responsible for providing transportation to an emergency medical facility if an employee did become sick or injured by pesticides.

No custom pesticide applications are made at this facility.

Mr. Coulter explained that the handler and workers are trained on an annual basis by himself using video training devices. Mr. Coulter maintains a roster documenting each person trained, to assure all workers and handlers have been trained every five years.

This location has a decontamination site near the central location, plus a trailer device containing a 20 gallon water tank, soap and towels, which is used out on the farm so that it is within a 1/4 mile from where workers are working. There was also an eye wash bottle in a shed near the mix/load site where other PPE items were also stored. Handlers also carry coveralls in a plastic bag in their tractors, to serve as a clean change of clothing in case their work clothes become contaminated with pesticides. The handlers remove their personal protective equipment and wash at the decontamination site near the mix load area.

Workers are notified of pesticide applications orally and if necessary by posted notification. Mr. Coulter showed us he has the approved notification signs that he utilizes if required by the pesticide label.

All personal protective equipment is maintained and provided by Mr. Coulter or Mr. Hall. Mr. Nierenberg checked the product label from the AUO* and found that all required personal protective equipment was available and utilized.

Mr. Nierenberg then conducted worker interviews with the five workers from Mexico that were available on the farm at the time we were there. All workers spoke enough English to understand the interview questions. All the workers indicated that they were trained about pesticide safety, knew about the information in the Central Posting Area, and were aware of the decontamination supplies available.

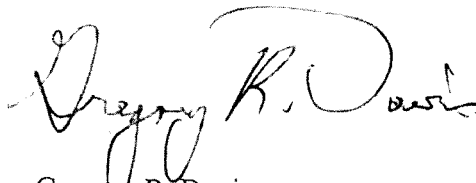
Market Place/Restricted Dealer Records:

While Mr. Nierenberg was conducting worker interviews, this inspector checked the sales and inventory records of a couple pesticide products with Mr. Coulter and Mr. Hall. Mr. Hall showed the beginning inventory of both "Proaxis" insecticide, EPA Registration number 74921-3-34704 and "Tombstone" insecticide, EPA Registration number 34704-912. He then showed me the sales records that indicated sales of both of these Federally Restricted Use products. He showed color copies of the Pesticide Certification ID cards of the customers that purchased these products, showing that the customers were currently certified. Next, Mr. Coulter showed me the location of the current stock of the two products, and the quantity matched the amount of product from the beginning inventory minus the sale amounts.

The last task was to check the registration status of pesticide shelf stock offered for sale to the public. All products were found to be registered as required by New York State.

CLOSING DISCUSSIONS

I reviewed all completed inspection paperwork with Mr. Coulter and provided him with copies of each document. I had him read and sign the Inspection Report Cover Sheet and provided him with a copy of said document. This concluded the inspection. We thanked him and Mr. Hall for their time and left the premises.



Gregory R. Davis
Pesticide Control Specialist I
Region 9

ATTACHMENTS

- Attachment A - Inspection Report Cover Sheet
- Attachment B - Notice of Inspection
- Attachment C - URPCEP Checklist
- Attachment D - Certified Applicator/Business/Use Inspections
- Attachment E - Market Place/Restricted Dealer Records Inspection
- Attachment F - Worker Protection Standard Inspection pages 1-4
- Attachment G - Worker Interview Questionnaire

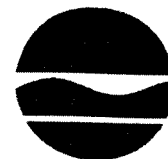
New York State Department of Environmental Conservation

Division of Materials Management, Region 9

270 Michigan Avenue, Buffalo, New York 14203-2915

Phone: (716) 851-7220 • FAX: (716) 851-7226

Website: www.dec.ny.gov



Alexander B. Grannis
Commissioner

September 24, 2010

Mr. David Coulter
Coulter Farms LLC
3871 North Ridge Road
Lockport, New York 14094

Dear Mr. Coulter:

On September 20, 2010, Pesticide Control Specialists with the New York State Department of Environmental Conservation, Buffalo Regional Office, in carrying out the provisions of the New York State Environmental Conservation Law (NYS ECL), conducted an inspection of Coulter Farms LLC, Lockport, NY, of which you are a member, to determine if various laws, rules, and regulations relating to the application of pesticides were being followed according to the requirements of the NYS ECL and the New York State Code of Rules and Regulations (NYCRR). The purpose of this letter is to advise you of the Department's summary of the inspection, to point out any violations noted, and to request any corrective actions necessary.

NYCRR Part 325.2 (c) requires all equipment containing pesticides and drawing water from any water source shall have an effective anti-siphon device to prevent back flow into the public water supply. No "approved" anti-siphon or fixed pipe air gap devices were observed on your pesticide application equipment or at your fill station on site. This was discussed with you during the inspection, and it is our understanding that you will install a permanent air gap filling system immediately. I have included information regarding anti-siphon devices and fixed pipe filling systems for your information.

As an enforcement agency, the Department is compelled by the NYS Legislature to initiate enforcement actions, and to assess penalties, when it is determined that violations of the ECL have occurred. The amount of the penalties is prescribed in the law under Article 71 Section 71-2907, which states that any individual who violates any provisions of Article 33 of the ECL shall be liable for a civil penalty not to exceed \$5,000.00 for a first violation, and not to exceed \$10,000.00 for a subsequent offense.

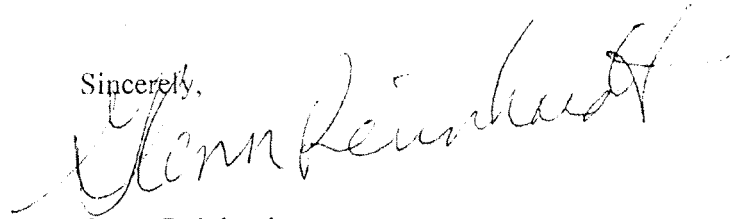
However, the Department has the ability to exercise enforcement discretion and issue, in this case, this minor offense "Warning Letter." This enforcement discretion is the result of a routine assessment of the Department's enforcement priorities and your willingness to correct the

Mr. David Coulter
September 24, 2010
Page 2

violations, and should not be perceived as an acceptance of the violation alleged above. Should you be found to be applying pesticides in the future in violation of this warning, additional penalties, plus those suspended by this warning, will be assessed.

We appreciate your cooperation during the inspection and the fact that you have obviously made a commitment to comply with New York State laws, rules and regulations. If you have any questions regarding this inspection, or pesticide laws and regulations in general, please contact me at 851-7220.

Sincerely,

A handwritten signature in cursive script, appearing to read "Glenn Reinhardt", written in dark ink.

Glenn Reinhardt
Pesticide Control Specialist II

GR:lg

Enclosure